

§ 4.273

and conducted in accordance with the rules of this subpart. The administrative law judge or Indian probate judge will enter a final decision based on his or her findings, modifying or refusing to modify the property inventory. His or her decision will become final at the end of 60 days from the date it is mailed, unless an aggrieved party files a notice of appeal within such period. Notice of entry of the decision must be given in accordance with § 4.240(b).

(d) A party aggrieved by the deciding official's decision may appeal to the Board under §§ 4.310 through 4.323.

(e) The record of all proceedings must be lodged with the designated LTRO under § 4.236(b).

§ 4.273 Distribution of estates.

(a) The Superintendent must initiate payment of allowed claims, distribution of the estate, and all other actions required by the deciding official's final order 75 days after a final order has been issued, unless he or she has received:

(1) A copy of a request for de novo review filed under § 4.215;

(2) A copy of a petition for rehearing filed under § 4.241(a); or

(3) A copy of a notice of appeal filed under § 4.320(b).

(b) The Superintendent must not initiate the payment of claims or distribution of the estate during the pendency of proceedings under §§ 4.215, 4.241, or 4.242, unless the administrative law judge or Indian probate judge orders otherwise in writing. The Board may, at any time, authorize the administrative law judge or Indian probate judge to issue interim orders for payment of claims or for partial distribution during the pendency of proceedings on appeal.

MISCELLANEOUS

SOURCE: 70 FR 11823, Mar. 9, 2005, unless otherwise noted.

§ 4.281 Claims for attorney fees.

(a) The deciding official may allow fees for attorneys representing Indians in proceedings under this part.

(1) At the discretion of the deciding official, these fees may be chargeable against the interests of the party rep-

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resented or may be taxed as a cost of administration.

(2) Petitions for allowance of fees must be filed before the close of the last hearing and must be supported by whatever proof the deciding official requires.

(3) In determining attorney fees, consideration must be given to the fact that the property of the decedent is restricted or held in trust and that it is the duty of the Department to protect the rights of all interested parties.

(b) Nothing in this section prevents an attorney from petitioning for additional fees to be considered at the disposition of a petition for rehearing and again after an appeal on the merits. An order allowing attorney fees is subject to a petition for rehearing and to an appeal.

§ 4.282 Guardians for incompetents.

Minors and other legal incompetents who are interested parties must be represented at all hearings by legally appointed guardians, or by guardians ad litem appointed by the deciding official.

TRIBAL PURCHASE OF INTERESTS UNDER SPECIAL STATUTES

SOURCE: 70 FR 11823, Mar. 9, 2005, unless otherwise noted.

§ 4.300 Authority and scope.

(a) Sections 4.300 through 4.308 apply to formal proceedings in Indian probate that relate to the tribal purchase of a decedent's interests in the trust and restricted land shown in the following table.

Location of trust or restricted land	Legislation governing purchase
(1) Yakima Reservation or within the area ceded by the Treaty of June 9, 1855 (12 Stat. 1951).	The Act of December 31, 1970 (Pub. L. 91-627; 84 Stat. 1874; 25 U.S.C. 607 (1976)), amending section 7 of the Act of August 9, 1946 (60 Stat. 968).
(2) Warm Springs Reservation or within the area ceded by the Treaty of June 25, 1855 (12 Stat. 37).	The Act of August 10, 1972 (Pub. L. 92-377; 86 Stat. 530).
(3) Nez Perce Indian Reservation or within the area ceded by the Treaty of June 11, 1855 (12 Stat. 957).	The Act of September 29, 1972 (Pub. L. 92-443; 86 Stat. 744).